

Message

From: Ozone Implementation Team [no-reply@sharepointonline.com]
Sent: 9/11/2017 2:16:06 PM
To: Svingen, Eric [Svingen.Eric@epa.gov]
Subject: Ozone in the News - Ozone Designations Delay Throws 'Wrench'...

 Ozone Designations Delay Throws 'Wrench'... has been added



Mackintosh, David

9/11/2017 10:13 AM

Title: Ozone Designations Delay Throws 'Wrench' Into NAAQS Compliance Plans

Body:

Ozone Designations Delay Throws 'Wrench' Into NAAQS Compliance Plans

September 08, 2017

East Coast air regulators are warning that EPA's withdrawn delay of designations for which states are attaining the 2015 ozone air standard throws a "monkey wrench" into their efforts to craft plans for complying with the standard, because of lingering uncertainty about whether the agency might revive the delay for some states.

At a Sept. 7 meeting of the Ozone Transport Commission (OTC) of 12 Mid-Atlantic and Northeast states in Washington, D.C., regulators said that the problems include confusion about what the delay means for the base year emissions modeling that states have to use in crafting their compliance plans for the ozone national ambient air quality standard (NAAQS), and that having to redo modeling will cost states time and money.

Exacerbating the problem is a widespread expectation among state air quality regulators that EPA will still delay the designations for some areas because of ongoing fights about emissions data, regulators say.

EPA's withdrawn delay faces [an ongoing legal challenge](#) in the U.S. Court of Appeals for the District of Columbia Circuit from several Democratic states and environmentalists who argue that agency Administrator Scott Pruitt lacked authority for his since-scrapped decision to delay designations from Oct. 1 to Oct. 1, 2018.

Designations are crucial because they start the three-year Clean Air Act clock for states to write their state implementation plans (SIPs) outlining the emissions control measures they will impose on sources of ozone air pollution in order to meet the NAAQS of 70 parts per billion (ppb). The Obama administration tightened the limit from the prior standard of 75 ppb, but Pruitt has since said that he wants to reconsider that decision.

As part of that effort, the administrator announced in June that he would delay the looming Oct. 1 deadline for issuing designations due to what he said were gaps in data on ozone emissions.

But in early August he scrapped that decision in a *Federal Register* notice that said consultation with states showed that the information gaps might not be as expansive as EPA previously believed. Observers noted that the decision came shortly after the D.C. Circuit in a July 3 decision blocked the agency from delaying implementation of an Obama-era rule governing methane emissions from the oil and gas sector.

Nevertheless, EPA in the *Register* notice said the administrator "may still determine that an extension of time to complete designations is necessary" -- and OTC members are criticizing this possibility.

"This is throwing a monkey wrench into the program," said New Hampshire air regulator Jeff Underhill. "This is a mess for us."

Ozone Designations

Withdrawal of the delay means the air law's deadline of Oct. 1 for issuing the designations still stands, and EPA is expected to miss the deadline for those areas where some disagreement exists between states and the agency over the correct designation.

EPA issues "120 day letters" giving states its opinion on their recommendations on designations with 120 days' notice for states of the decision, and there is now not enough time for this process, according to state regulators.

In order to craft SIPs, states must conduct computer modeling of their future air emissions that is tied to an emissions "inventory" created for a specific base year. But having multiple rounds of designations greatly complicates this, because areas designated later probably will not be allowed to rely on modeling used for the first designations because the base inventory year will be too far in the past, Underhill said.

Having to redo modeling will cost states time and money, he added, which will almost double the SIP workload for some states at a time of dwindling state resources.

Also, delaying designations may in fact push some areas into nonattainment or otherwise worsen their position. This is because areas designated by Oct. 1 this year would rely on three years of air monitoring data spanning 2014-2016. But areas designated in 2018 might rely on newer data spanning 2015-2017, if the data is certified in time by states.

2014 saw low ozone levels in the eastern United States because of an unusually cool summertime ozone season, which was less conducive to ozone formation than normal. But later years have seen higher summer ozone levels, pushing states' "design values," used to determine NAAQS attainment, higher.

Attainment deadlines for areas designated late may also fall later than those for areas designated on time, Underhill noted.

Environmentalists who sued EPA over the initial designations delay are threatening legal action if -- or when -- EPA misses its Oct. 1 deadline, creating further uncertainty.

Deferred Designations

Areas that appear certain to face deferred designation include the New York City and Philadelphia metropolitan areas, Underhill said, because of disagreements between states with territory in those areas about the geographical scope of nonattainment areas. Both metro areas are likely to be classified nonattainment, Underhill said, but EPA must decide on the geographical scope of the area to be so designated.

Meanwhile, David Brymer, air quality division director of the Texas Commission on Environmental Quality (TCEQ), the state's air regulator, said during a presentation to manufacturers in San Antonio Sept. 5 that EPA's action with respect to that city is still unclear, with deferral possible, but unlikely, beyond Oct. 1.

TCEQ recommended to EPA that the city be designated in "marginal" nonattainment, the least-severe status, and Brymer said "I believe it's unlikely that the EPA will delay that designation," according to [*the San Antonio Business Journal*](#).

The agency did not send TCEQ a 120-day letter disagreeing with the state's recommendation, and so can proceed directly to designation. However, OTC-area regulators are not aware of any state receiving such letters. -- *Stuart Parker* (sparker@iwpnews.com)

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